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W.A.No.3490 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.3490 of 2023 and C.M.P. Nos.28516 of 2023 & 6265 of 2024

The Administrator
The Erode District Central Cooperative Bank Ltd.
01, Bhavani Main Road
Erode 638 003

Appellant

v

- 1 S. Vanitha
- 2 The Joint Registrar of Cooperative Societies
Erode Region
Mohan Kumaramangalam Street
Erode 638 009
- 3 The Deputy Registrar of Cooperative Societies
Erode Circle
Mohan Kumaramangalam Street
Erode 638 009

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging
the order dated 13.07.2022 passed in W.P. No.7824 of 2022.

For appellant

Mr. N. Palanikumar

For R1

Mr. L.P. Shanmugasundaram

For RR 2 & 3

Mrs. Geetha Thamaraiselvan
Special Government Pleader



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JUDGMENT

(delivered by R. MAHADEVAN, J.)

Heard all the parties and perused the documents enclosed in the typed set of papers.

2 This writ appeal has been filed impugning the order dated 13.07.2022 passed by a learned Judge in W.P. No.7824 of 2022.

3 A vignette of the facts leading to the filing of this writ appeal is given as under:

3.1 Alleging misappropriation, proceedings under Section 81 of the Tamil Nadu Cooperative Societies Act was initiated against the first respondent's husband, who was working as Secretary in the Erode District Judicial Staff Cooperative Thrift and Credit Society Ltd. and his salary from September 2019 was also stopped. Further, though he was suspended from service, no subsistence allowance was paid to him.

3.2 While so, he died in harness on 20.06.2021. However, his salary from September 2019 till the date of his demise, and terminal benefits such as



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Provident Fund, Leave Salary, Gratuity, Family Pension, *etc.* remained unpaid, on the ground that the medical leave availed by him in five spells should be first regularised and only then, the salary and terminal benefits due to him could be released.

3.3 Since his salary and terminal benefits continued to remain unpaid notwithstanding several representations from the first respondent, the first respondent filed W.P.No.7824 of 2022 seeking a direction to the respondents 2 and 3 to disburse her husband's salary and terminal benefits.

3.4 The learned Judge, *vide* order dated 13.07.2022, as far as payment of Provident Fund, Earned Leave salary and Unearned Leave Salary is concerned, by following a Division Bench judgment of this Court in **The Secretary to Government, Revenue Department v K. Palaniyandi**¹, held that the same cannot be denied. As for other benefits, the learned Judge directed the respondents 2 and 3 to consider and pass orders on the first respondent's representation dated 09.08.2021 on merits and in accordance with law within a period of twelve weeks.

¹ W.A. (MD) No.105 of 2019 decided on 31.07.2019



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3.5 Alleging that the aforesaid order passed by the learned Judge was not complied with, the first respondent filed a contempt petition being Cont. Petn. No.511 of 2023.

3.6 In the said contempt petition, the second respondent therein, viz., Deputy Registrar of Cooperative Societies, who is the third respondent herein, filed an affidavit setting out the details of payment to be made to the first respondent herein in a phased manner.

3.7 The learned Judge, in the said contempt petition, *vide* order dated 08.09.2023, based on the submission made by the learned Additional Advocate General that it is only Erode District Central Cooperative Bank (the appellant herein), which is the proper party for effective implementation of the order dated 13.07.2022 passed in W.P. No.7824 of 2022, *suo motu* impleaded the appellant herein as the third respondent in the contempt petition and closed the contempt petition by directing the respondents therein to settle the benefits to first respondent herein as per the affidavit filed in the said contempt petition.

3.8 Challenging the said order dated 13.07.2022 disposing of the writ petition, the Administrator of Erode District Central Cooperative Bank Ltd., a



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third party to the writ petition and who was impleaded *suo motu* in the contempt petition, on the date on which the contempt petition was closed, after obtaining leave from this Court, has filed this writ appeal.

4 The learned counsel for the appellant submitted that the appellant was a party neither in the writ petition nor in the contempt petition initially, and that in the contempt petition, the appellant was directed to disburse benefits to the first respondent on the day on which the appellant was *suo motu* impleaded without affording an opportunity of hearing. However, the learned counsel, after making some arguments, submitted that the appellant will consider the claim of the first respondent and pass orders, on merits and in accordance with law, within a time frame to be stipulated by this court.

5 In view of the above, this court modifies the order of the learned Judge by directing the appellant to pass appropriate orders, on the claim of the first respondent, in respect of the benefits, which she is legally entitled to, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this judgment.



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6 Accordingly, this writ appeal stands disposed of. No costs.

Connected C.M.Ps. stand closed.

[R.M.D, J.] [M.S.Q, J.]
10.04.2024

cad/rk

To

- 1 The Joint Registrar of Cooperative Societies
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Mohan Kumaramangalam Street
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- 2 The Deputy Registrar of Cooperative Societies
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